

of interest, on all outstanding marketable obligations of the United States having a maturity date of 15 years or more from the first day of such next preceding month, and by adjusting such estimated average annual yield to the nearest one-eighth of 1 per centum.

[36 FR 24587, Dec. 22, 1971, as amended at 49 FR 12697, Mar. 30, 1984]

§ 221.256 Interest rate increase and payment of mortgage insurance premiums on mortgages under § 221.60 and § 221.65.

(a) Where a mortgage meets the special requirements of § 221.60 or § 221.65, the following procedures are applicable:

(1) The mortgagee shall determine, at least biennially, whether the mortgagor has continued to occupy the property securing the mortgage. If the mortgagee determines that the mortgagor is not occupying the property or that the mortgagor has sold the property subject to the mortgage to a purchaser not qualifying under the provisions of § 221.60(h) or § 221.65(d)(4) (as appropriate) for the continuation of a below market interest rate, interest on such mortgage shall be computed by the mortgagee at the highest rate permissible under the mortgage. The computation at the higher rate shall be effective from the first day of the month following the month in which the right to collect interest at the increased rate first accrued, as determined by the mortgagee.

(2) The mortgagee shall determine the mortgagor's family income, at least biennially, and shall increase the mortgage interest pursuant to the requirements of §§ 221.60(g) and 221.65(d)(5), as appropriate, to comply with the requirements of such sections. The computation at the higher rate shall be effective from the first day of the month following the month in which the mortgagee determines that the mortgagor's family income was increased.

(b) The mortgagee shall notify the Commissioner, on a form prescribed by the Commissioner, within 30 days of making the determination of the right to compute interest at the higher rate, as provided in paragraph (a) of this section, of:

(1) The date on which such right first accrued, and

(2) The outstanding principal balance of the mortgage on the first day of the month following the date on which such right first accrued.

(c) The liability for payment of mortgage insurance premiums shall begin on and be computed from the first day of the month following the date on which the right to compute interest at the higher rate shall have first accrued.

[36 FR 24587, Dec. 22, 1971, as amended at 37 FR 8663, Apr. 29, 1972]

§ 221.275 Method of paying insurance benefits.

If the application for insurance benefits is acceptable to the Commissioner, all of the insurance claim shall be paid in cash unless the mortgagee files a written request with the application for payment in debentures. If such a request is made, all of the claim shall be paid by issuing debentures and by making a cash payment adjusting any differences between the total amount of the claim and the amount of the debentures issued.

§ 221.280 Waived title objections.

(a) *General provisions.* All of the provisions of § 203.389 of this chapter (relating to the waiver by the Commissioner of objections to title) shall apply to mortgages insured under this subpart, with the exception of mortgages involving condominium units.

(b) *Provisions applicable to condominium units.* Where the mortgage involves a condominium unit, the Commissioner shall not object to title by reason of the following matters:

(1) Violations of a restriction based on race, color, or creed, even where such restriction provides for a penalty of reversion or forfeiture of title or a lien for liquidated damage.

(2) Easements for public utilities along one or more of the property lines, provided the exercise of the rights thereunder do not interfere with any of the buildings or improvements located on the subject property.

(3) Encroachments on the subject property by improvements on adjoining property, provided such encroachments

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do not interfere with the use of any improvements on the subject property.

(4) Variations between the length of the subject property lines as shown on the application for insurance and as shown by the record or possession lines, provided such variations do not interfere with the use of any of the improvements on the subject property.

(5) Customary buildings or use restrictions for breach of which there is no reversion and which have not been violated to a material extent.

SPECIAL PROVISIONS APPLICABLE ONLY TO MORTGAGES INVOLVING CONDO- MINIUM UNITS

§ 221.300 Changes in the plan of apartment ownership.

The mortgagee shall notify the Commissioner of any changes in the plan of apartment ownership and in the administration of the property. Such notification shall be given either at the time of the conveyance of the property or at the time of the assignment of the mortgage. Any changes in such plan shall require approval by the Commissioner.

§ 221.305 Condition of the multifamily structure.

(a) When a family unit is conveyed or a mortgage is assigned to the Commissioner, the family unit and the common areas and facilities (including restricted common areas and facilities) designated for the particular unit shall be undamaged by fire, earthquake, tornado, or boiler explosion, except if the property has been damaged, either of the following actions shall be taken:

(1) The property may be repaired prior to its conveyance or prior to the assignment of the mortgage to the Commissioner.

(2) With the prior approval of the Commissioner, the property may be conveyed or the mortgage assigned to the Commissioner without repairing the damage. In such instances, the Commissioner shall deduct from the insurance benefits either his estimate of the decrease in value of the family unit or the amount of any insurance recovery received by the mortgagee, whichever is the greater.

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(b) If the property has been damaged by fire and such property was not covered by fire insurance at the time of the damage, the mortgagee may convey the property or assign the mortgage to the Commissioner without deduction from the insurance benefits for any loss occasioned by such fire if the following conditions are met:

(1) The property shall have been covered by fire insurance at the time the mortgage was insured.

(2) The fire insurance shall have been later cancelled or renewal shall have been refused by the insuring company.

(3) The mortgagee shall have notified the Commissioner within 30 days (or within such further time as the Commissioner may approve) of the cancellation of the fire insurance or of the refusal of the insuring company to renew the fire insurance. This notification shall have been accompanied by a certification of the mortgagee that diligent efforts were made, but it was unable to obtain fire insurance coverage at reasonably competitive rates and that it will continue its efforts to obtain adequate fire insurance coverage at competitive rates.

§ 221.310 Assessment of taxes.

When a family unit is conveyed to the Commissioner or a mortgage is assigned to the Commissioner, the unit shall be assessed and subject to assessment for taxes pertaining only to that unit.

§ 221.315 Certificate of tax assessment.

The mortgagee shall certify, as of the date of filing for record of the deed or assignment of the mortgage to the Commissioner, that the family unit is assessed and subject to assessment for taxes pertaining to that unit.

§ 221.320 Certificate or statement of condition.

(a) At the time of the assignment of the mortgage or conveyance of the property to the Commissioner, the mortgagee shall, as of the date of the filing for record of the deed or assignment,

(1) Certify that the conditions of § 221.305(a) have been met; or

(2) Submit a statement describing any such damage that may still exist.